CBIA CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

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BEFORE THE
LABOR COMMITTEE
LEGISLATIVE OFFICE BUILDING
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Good Afternoon Senator Osten, Representative Tercyak and members of the Labor Committee. My name is Laura Cummings and I am testifying today on behalf of the Connecticut Business and Industry Association. CBIA's 10,000 member companies represent the broad diversity of Connecticut's businesses, and the vast majority of our members are small companies with fewer than 50 employees.

Thank you for hearing testimony today in **opposition to SB 907** AN ACT CONCERNING ADDITIONAL REQUIREMENTS FOR AN EMPLOYER'S NOTICE TO DISPUTE CERTAIN CARE DEEMED REASONABLE FOR AN EMPLOYEE UNDER THE WORKERS' COMPENSATION ACT.

SB 907 would raise the legal standard for reduction or discontinuance of workers' compensation benefits.

CBIA does not support legislation that increases workers compensation costs for Connecticut employers or makes it more difficult for them to manage workers compensation claims. We believe that **SB 907** is an unnecessary and potentially costly burden on employers when handling and defending their actions in workers compensation claims. For the following reasons **we strongly oppose this legislation:**

1) **SB 907** requires that an employer issue a notice of their intent to discontinue benefits within 5 days of the employer, or the insurer, or the adjuster, or the Second Injury Fund's notification of the need for treatment. This is an incredibly burdensome task as there are several ways for any one of these parties to be notified of the request for treatment, including: medical reports, billing statements, status reports, etc. Presumably, if the employer does not timely notify of their intent to discontinue benefits, they will be precluded from doing so. This will in turn lead to an increase in the cost of medical benefits for employers, as well as the State.

2) **SB 907** would also require employers to obtain the opinion of a Connecticut licensed physician stating the claimant's treating doctor is recommending treatment outside the standard of care – or basically committing malpractice. In a state as small as Connecticut, it would be incredibly difficult to obtain such an opinion from a physician practicing in the same community as the treating doctor. This would create a nearly impossible burden for employers.

Furthermore, this bill requires that the opinion of the employer's physician be included with the notice for the notice to be effective. Thus, employers must obtain a written opinion from a physician within five days of their receipt of the request for treatment by the treating physician. This is also a nearly impossible burden for employers to meet. It can often take days, if not weeks to obtain an opinion from a physician, and many will not issue an opinion without having seen the patient.

3) **SB 907** mandates employers challenging medical treatment to obtain a Respondent's Medical Examination (RME) within two weeks of seeking to discontinue benefits. This is impractical and in many cases impossible to satisfy. The Payor and Medical Provider Guidelines have been drafted by the Workers' Compensation Commission's Chairman to guide the scheduling of such examinations. They are as follows:

> Scheduling of RME
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> When scheduling an RME, it must be scheduled with a medical provider in a same or similar medical specialty within 12 calendar days from the payor's receipt of the medical reports.
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> a. The exam must be held within 60 calendar days after scheduled.
> b. If the examiner cannot meet the time constraints, another examiner should be selected unless the parties agree in writing to extend the deadline.
> c. The RME report is expected to be issued within 21 days of the exam.
> d. Prepayment of RMEs is prohibited. [Conn. Admin. Reg. Sec. 31-280-1(a)(6)]
> e. It is recommended that the payor provide a pre-exam confirmation and reminder call to the injured worker and/or his/her representative at least 48 hours in advance to avoid "no show" fees.

Thus, the Chairman has created reasonable and equitable guidelines for the parties to follow.

4) **SB 907** requires an employer to continue to pay for disputed treatment until a Commissioner rules, in writing, that the employer may end payment. Currently, when an employer challenges treatment, the claimant's health insurance is responsible to cover the cost. If it is later determined that the employer is responsible, the employer reimburses the health insurer. If this bill is passed, it would require the employer to continue to pay for potentially unrelated medical care until they obtain a written ruling from a Commissioner, which may take weeks or months to procure. The employer will likely never be reimbursed for medical treatment ultimately deemed unrelated that was paid for during this period.

5) **SB 907** would also allow a claimant to choose his course of care when there is disagreement between the RME and treating physician regarding the best options for treatment. Currently, when there is a disagreement between physicians the parties will come before the Commissioner and request her opinion. This often leads to a Commissioner's Examination to

break the dead lock. Thus, the employee's interests are guarded and the employer is still able to more effectively manage the claim, often reducing cost.

This legislation is unnecessary under current practice. Presently, before employers reduce or discontinue medical or indemnity benefits in a workers' compensation claim, they must file a "Form 36" with the Workers' Compensation Commission. This generates a hearing, at which the employer presents evidence and their arguments against the subject treatment or benefits. The Commissioner would then determine, based on the evidence before her, whether the claimant's benefits or treatment should be modified. If the Commissioner is not satisfied with the evidence before her, she can hold the Form 36 until she is provided more information, she can order a Commissioner's Examiner's opinion to inform her decision or she can deny the request. **SB 907** would remove the Commissioner discretion in these instances.

This bill presents an unnecessary added burden to Connecticut's employers. In a year in which our businesses have seen an average increase of 7% in their workers' compensation rates, this bill will surely become another cost driver.

It is also important to note that the cost of medical benefits have continuously risen in our state. Traditionally, medical benefits paid in workers' compensation claims were closer to a third of an average claim. They have now climbed to fifty percent or more of each claim. If enacted, **SB 907** will force already high medical cost even higher, making Connecticut less competitive to businesses.

For the aforementioned reasons, I urge that you **oppose SB 907.**